

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
AT LAW AND IN ADMIRALTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.

APPROXIMATELY \$15,458.00 IN UNITED
STATES CURRENCY,

Defendant.

VERIFIED COMPLAINT FOR CIVIL FORFEITURE IN REM

The United States of America, by its attorneys, Matthew D. Krueger, United States Attorney for the Eastern District of Wisconsin, and Lisa T. Warwick, Assistant United States Attorney for this district, alleges the following in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

Nature of the Action

1. This is a civil action to forfeit property to the United States of America, under 21 U.S.C. § 881(a)(6), for violations of 21 U.S.C. § 841(a)(1).

The Defendant In Rem

2. The defendant property, approximately \$15,458.00 in United States currency, was seized on or about July 3, 2020, from Jose Vargas at 3XXX S. 43rd Street, Apt. XX, Milwaukee, Wisconsin.

3. The defendant property is presently in the custody of the United States Marshal Service in Milwaukee, Wisconsin.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

5. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b).

6. Venue is proper in this district under 28 U.S.C. § 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred, in part, in this district.

Basis for Forfeiture

7. The defendant property, approximately \$15,458.00 in United States currency, is subject to forfeiture to the United States of America under 21 U.S.C. § 881(a)(6) because it was used or intended to be used in exchange for controlled substances, represents proceeds of trafficking in controlled substances, or was used or intended to be used to facilitate a violation of 21 U.S.C. § 841(a)(1).

Facts

8. Marijuana is a Schedule I controlled substance under 21 U.S.C. § 812.

9. Tetrahydrocannabinol (“THC”) is a Schedule I controlled substance under 21 U.S.C. § 812.

10. MDMA, also known as ecstasy, is a Schedule I controlled substance under 21 U.S.C. § 812.

Background

11. In August 2019, a confidential informant (“CI”) told officers the following:

A. Jose Vargas and an individual having the initials B.P. were involved in selling large quantities of high-grade marijuana.

- B. Jose Vargas sold pound quantities of marijuana to the CI.
- C. Jose Vargas and B.P. obtained marijuana and THC cartridges from sources in California.

12. On or about September 18, 2019, officers executed a search warrant at the then-residence of Jose Vargas and B.P.

- A. Inside the residence were approximately 80 grams of marijuana and edibles, approximately 15 THC cartridges, ammunition, and approximately \$2,990.
- B. Jose Vargas admitted ownership of the approximately 80 grams of marijuana and edibles, and the approximately 15 THC cartridges.

13. In May 2020, the CI purchased THC cartridges from Jose Vargas for an agreed-upon amount of currency. The cartridges that the CI purchased from Vargas were labeled as containing 82% THC and the total weight was approximately 1,025 milligrams.

14. In June 2020, the CI told officers that Jose Vargas and B.P. were anticipating a shipment of marijuana and THC cartridges.

15. American Airlines records show that Jose Vargas and B.P. flew from Chicago, Illinois, to Los Angeles, California, on June 15, 2020, and flew from Los Angeles, California, back to Chicago, Illinois, on June 18, 2020.

16. American Airlines records show that on June 27, 2020, Jose Vargas and B.P. again flew from Chicago, Illinois, to Los Angeles, California.

17. During one or both of their June 2020 trips to California, officers believe that Jose Vargas and B.P. arranged to have marijuana and/or THC cartridges transported to Milwaukee, Wisconsin.

18. In June 2020, Jose Vargas resided at 3XXX S. 43rd Street, Apt. XX, Milwaukee, Wisconsin.

19. In June 2020, B.P. resided at 1XX E. National Avenue, Apt. 3XX, Milwaukee, Wisconsin.

July 2, 2020, surveillance at B.P.'s residence, 1XX E. National Avenue, Apt. 3XX, Milwaukee, Wisconsin

20. On July 2, 2020, officers conducted surveillance at B.P.'s residence, 1XX E. National Avenue, Apt. 3XX, Milwaukee, Wisconsin.

21. On July 2, 2020, surveillance video cameras at B.P.'s apartment complex recorded various activities at and near the complex.

22. Jose Vargas's blue Honda Accord was parked in the visitor parking section at B.P.'s apartment complex.

23. At approximately 2:03 p.m., B.P.'s vehicle pulled into the garage of the apartment complex.

24. At approximately 2:06 p.m., Vargas entered the building through the west main lobby.

25. At approximately 2:15 p.m., Vargas was standing on the third-floor balcony of B.P.'s apartment, Apt. 3XX.

26. At approximately 2:16 p.m., a gray minivan arrived at the apartment complex. A male exited the minivan and carried two large boxes into the building.

27. At the same time the male entered the building carrying the two large boxes, Vargas left the third-floor balcony and re-entered B.P.'s apartment.

28. At approximately 2:31 p.m., an individual having the initials C.K. was dropped off at B.P.'s apartment complex by a Lyft vehicle. At that time, Vargas walked back onto the third-floor balcony and tossed a set of keys down to C.K.

29. C.K. used the keys to enter Vargas's Honda Accord. C.K. drove the Honda Accord to the entrance door of the apartment complex and waited in the driver's seat of the vehicle.

30. At approximately 2:35 p.m., Vargas exited the building carrying one of the two large boxes that the male had carried into the building minutes earlier.

31. Vargas placed the box into the trunk of the Honda Accord and entered the passenger side of the vehicle. C.K. then drove away in the Honda Accord, with Vargas as a passenger.

32. Officers followed the Honda Accord and conducted a traffic stop on the vehicle. Neither Jose Vargas nor C.K. were wearing seat belts.

33. C.K. admitted to officers that there was a controlled substance in the vehicle.

34. A drug detection canine conducted a sniff on the exterior of the Honda Accord and alerted to the odor of narcotics on the trunk of the vehicle.

35. Officers searched the Honda Accord.

A. In the passenger compartment was mail addressed to Jose Vargas.

B. Inside the trunk were the following:

i. A large box containing seven vacuum-sealed bags of marijuana.

a. Each bag of marijuana was labeled with the name of a strain of marijuana, including O.G., G.G.S., Cookies, or G.G.

b. The bags contained approximate weights of 448.41 grams, 336.97 grams, 448.66 grams, 447.80 grams, 445.85 grams, 446.64 grams, and 446.98 grams, for a total of approximately 3,021.31 grams of marijuana.

ii. One box of .380-caliber ammunition.

iii. One spent .45-caliber casing.

July 3, 2020 execution of search warrant at Jose Vargas's residence, 3XXX S. 43rd Street, Apt. XX, Milwaukee, Wisconsin

36. On July 3, 2020, officers executed a search warrant at the residence of Jose Vargas, 3XXX S. 43rd Street, Apt. XX, Milwaukee, Wisconsin (the "subject residence").

37. Jose Vargas is the only adult resident of the subject residence.

38. On July 3, 2020, the following items, among other things, were in the subject residence:

- A. Seven large vacuum seal bags (approximately one-pound size) containing marijuana residue. These bags were similar to the vacuum-sealed bags containing marijuana that were inside the trunk of Vargas's Honda Accord on July 2, 2020.
 - i. Two of the seven bags were in the master bedroom closet.
 - ii. Five of the seven bags were inside a bin in a child's bedroom.
- B. Also in the master bedroom were the following:
 - i. Approximately \$15,458.00 in United States currency inside drawers in the headboard of the bed.
 - ii. MDMA pills and a THC cartridge on top of the headboard of the bed.
 - iii. A notebook with drug notes.
 - iv. A money counter.
- C. Also in the child's bedroom was a digital scale (5,000 gram size) with marijuana residue.
- D. A digital scale with marijuana residue was in the kitchen.

Jose Vargas's State Drug Charges

39. On July 5, 2020, Jose Vargas was charged in Milwaukee County Circuit Court, Case No. 20CF2652, with possession of marijuana with intent to deliver, second and subsequent offense.

Warrant for Arrest In Rem

40. Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the defendant property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

Claims for Relief

41. The plaintiff alleges and incorporates by reference the paragraphs above.

42. By the foregoing and other acts, the defendant property, approximately \$15,458.00 in United States currency, was used or intended to be used in exchange for controlled substances, represents proceeds of trafficking in controlled substances, or was used or intended to be used to facilitate a violation of 21 U.S.C. § 841(a)(1).

43. The defendant approximately \$15,458.00 in United States currency is therefore subject to forfeiture to the United States of America under 21 U.S.C. § 881(a)(6).

WHEREFORE, the United States of America prays that a warrant of arrest for the defendant property, approximately \$15,458.00 in United States currency, be issued; that due notice be given to all interested parties to appear and show cause why the forfeiture should not be decreed; that judgment declare the defendant property to be condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and equitable, together with the costs and disbursements of this action.

Dated at Milwaukee, Wisconsin, this 25th day of November, 2020.

Respectfully submitted,

MATTHEW D. KRUEGER
United States Attorney

By: /s/ Lisa T. Warwick
LISA T. WARWICK

Assistant United States Attorney
Wisconsin Bar No. 1017754
Attorney for Plaintiff
Office of the United States Attorney
Federal Building, Room 530
517 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 297-1700
Fax: (414) 297-4394
lisa.warwick@usdoj.gov

Verification

I, Jason J. Baranek, hereby verify and declare under penalty of perjury that I am a Task Force Officer with the Drug Enforcement Administration (“DEA”) in Milwaukee, that I have read the foregoing Verified Complaint for Civil Forfeiture *in rem* and know the contents thereof, and that the factual matters contained in paragraphs 8 through 38 of the Verified Complaint are true to my own knowledge.

The sources of my knowledge and information are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as a Task Force Officer with DEA.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Date: 11/24/2020

s/TFO JASON J. BARANEK
Jason J. Baranek
Task Force Officer
Drug Enforcement Administration

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Place an "X" in the appropriate box: ☐ Green Bay Division ☒ Milwaukee Division

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lisa T. Warwick, AUSA

US Attorney's Office, #530 Federal Building

517 E. Wisconsin Avenue, Milwaukee, WI 53202 (414-297-1700)

DEFENDANTS

APPROXIMATELY \$15,458.00 IN UNITED STATES CURRENCY

County of Residence of First Listed Defendant Milwaukee

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff

☐ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff)

(For Diversity Cases Only)

and One Box for Defendant

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange
	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange
	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 USC § 881(a)(6)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

11/25/2020

s/LISA T. WARWICK

FOR OFFICE USE ONLY

RECEIPT # _____

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
AT LAW AND IN ADMIRALTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.

APPROXIMATELY \$15,458.00 IN UNITED
STATES CURRENCY,

Defendant.

WARRANT FOR ARREST IN REM

To: THE UNITED STATES MARSHAL
Eastern District of Wisconsin

WHEREAS, a Verified Complaint for Civil Forfeiture *in rem* was filed on the 25th day of November, 2020, by the United States Attorney for the Eastern District of Wisconsin, which seeks the forfeiture of the above-named defendant property pursuant to Title 21, United States Code, Section 881(a)(6), and which prays that process issue to enforce the forfeiture and to give notice to all interested parties to appear before the court and show cause why the forfeiture should not be decreed; and due proceedings being had, that the defendant property be condemned and forfeited to the use of the United States of America.

YOU ARE THEREFORE HEREBY COMMANDED to attach and arrest the defendant property, approximately \$15,458.00 in United States currency, which was seized on or about July 3, 2020, from Jose Vargas at 3XXX S. 43rd Street, Apt. XX, Milwaukee, Wisconsin, and which is presently in the custody of the United States Marshal Service in Milwaukee, Wisconsin, in the Eastern District of Wisconsin, and to detain the same until further order of this Court.

Dated this ____ day of _____, 2020, at Milwaukee, Wisconsin.

GINA COLLETTI
Clerk of Court

By:

Deputy Clerk

Return

This warrant was received and executed with the arrest of the above-named defendant.

Date warrant received: _____

Date warrant executed: _____

Name and title of arresting officer: _____

Signature of arresting officer: _____

Date: _____